

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

VALERIE JEAN CULVER, as)
Personal Representative)
of the Estate of ROBERT)
D. LARSON, Deceased,)
and BESSIE JEAN LARSON,)
)
)
Plaintiffs,)
)
 vs.) No. 18-2-03806-5 SEA
)
3M COMPANY, et al.,)
)
)
Defendants.)

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

WAYNE WRIGHT,)
Individually and as)
Personal Representative)
for the Estate of)
WARREN WRIGHT, Deceased)
)
)
Plaintiffs,)
)
 vs.) No. 18-2-02204-5 SEA
)
3M COMPANY, et al.,)
)
)
Defendants.)

VIDEOTAPED CR 30(b)(6) DEPOSITION OF 3M COMPANY
PHILIP EITZMAN
VOLUME I

Taken on behalf of Plaintiffs
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1 filter, but -- no, I -- well, it's a sorbent
2 layer. It's not a particulate filter. So it is
3 something that absorbs gas molecules and not
4 something that stops particulates.

5 Q. And then can you provide us with a
6 distinction between the 8500 and the 8710?

7 A. The 8710 as far as construction?
8 Construction, it was -- we started with the
9 shell. It was a different shape than the 8500.
10 It was a little bit larger, though it had in the
11 central part of that three-dimensional structure,
12 it was the same shape. It was just cut to a
13 larger size than the 8500 shell.

14 And then on the outside of that you
15 had three layers of material called blown
16 microfiber web which were constructed of
17 polypropylene and provided filtration capability
18 to stop particulates. And those had -- there
19 were three different layers with different fiber
20 sizes that would provide different types of
21 filter performance.

22 And then there were two headbands
23 that were ultrasonically welded to the mask
24 instead of a single band that was stapled onto
25 the 8500. There was an aluminum nose clip which

1 was similar to the 8500's nose clip but thicker
2 and also a piece of polyurethane nose foam
3 located on the inside of the mask underneath the
4 position of the nose clip.

5 So it had a number of different
6 components that were there in addition to the
7 8710 that did not appear in the 8500, plus the
8 shape was slightly different as I described.

9 Q. Did the construction of the 8500
10 evolve over time or did it always remain the
11 same?

12 MS. BRANDT: Object to the form.

13 BY THE WITNESS:

14 A. The construction was -- well, what
15 time frame?

16 BY MR. SIMS:

17 Q. Between 19- -- I'm going to say --
18 I'm going to use the time frame 1958 to 1972.

19 A. No, there was no -- I mean, there may
20 have been some fiber changes. I don't think
21 there was any change to the latex resin.

22 Other than that, I don't think there
23 were any really substantive changes other than --
24 well, I think they may have at one point had
25 different colored clips, but they were always the

1 MS. BRANDT: Objection. Counsel,
2 this whole line of questioning is outside the
3 scope of the deposition notice and he's here to
4 talk about the 8500 and the 8710.

5 BY MR. SIMS:

6 Q. All right. Just as a follow-up, if
7 you know, sir.

8 A. Because the product was modified in
9 its design before it was sold as the 8500 to
10 areas outside of the medical arena.

11 Q. Earlier in our conversation we had a
12 discussion about the distinctions between the
13 different masks, the medical mask versus the 8500
14 versus the 8710, and there is also another one in
15 there, the 8705.

16 When you talked about the
17 distinctions, you talked about how each mask
18 distinguished itself from the other based on the
19 filtration materials.

20 A. No, I mean --

21 Q. And the band as well.

22 A. The construction. I mean, you apply
23 filtration material to the nonwovens that were
24 there in addition to the shell. So that's your
25 terminology. I guess I would call those

1 additional webs or nonwoven layers that were
2 added to the mask.

3 In some cases they are there to
4 protect a sorbent layer as in the 8705 or there
5 to protect filtration layers as in the 8710. So
6 there were other components added and they were
7 different from one product to another.

8 Q. What I'd like to now focus our
9 attention on is how the respective masks
10 distinguished -- were distinguished from each
11 other specific to the face seal.

12 So can you please explain how it is
13 that the medical masks differed from the 8500
14 specific to the face seal?

15 MS. BRANDT: Again, I'm going to
16 object that this is outside the scope. If you
17 want to ask him about the 8500, that's what he is
18 here and prepared to talk about today, the 8500
19 and 8710.

20 BY THE WITNESS:

21 A. So it depends on which medical mask
22 you are talking about and also we need to kind of
23 define what you mean by face seal.

24 If you mean the area that contacts
25 the face, then there was -- from the earliest

1 States?

2 A. I believe we did file for patents
3 outside the US, not again for the 8500, but for
4 the process for making molded articles, I think
5 is the terminology, using nonwoven materials.

6 Q. So if I understand correctly, 3M
7 applied for the same type of patent in the United
8 States and outside the United States?

9 A. I haven't looked at that
10 specifically. I certainly have reviewed the US
11 patent. But there haven't really been any
12 occasions when I've been required to look at the
13 filing of the patent outside the US.

14 But 3M typically, if the patent is
15 thought to have value, will file for patents
16 outside the US for the same type of things that
17 they file for patents in the US.

18 Q. Specifically what patent did you
19 review as it relates to the 8500 filed in the US?

20 MS. BRANDT: Object to the form.

21 BY THE WITNESS:

22 A. Patent? There was not a patent for
23 the 8500 again. It was a patent for the process
24 to make molded articles with nonwoven materials
25 and that -- there is a patent that was -- the

1 **inventors were Mr. Carey and Mr. Westberg.**

2 BY MR. SIMS:

3 Q. Do you recall when that patent was
4 applied for?

5 A. **1958 sticks in my head, but I don't**
6 **know if that -- that may have been when it was**
7 **filed. I think it was granted later.**

8 Q. So if I understood correctly, the
9 patent that you are referring to was a patent for
10 molded nonwoven fabric articles?

11 A. **That's not the terminology. It's a**
12 **process for making molded articles out of**
13 **nonwovens. Whether that's the title of the**
14 **patent, I don't think it is.**

15 Q. Filed by Mr. Walter Westberg and
16 Patrick Carey?

17 A. **Yes.**

18 Q. And if it was filed in 1959,
19 August 1959, would you have any reason to
20 disagree with that statement?

21 A. **Well, if you are looking at the**
22 **patent and that's what it said, I wouldn't**
23 **disagree with that.**

24 Q. You would agree that the defense
25 provided by the 8500 against harmful particles